REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

Information Disclosure Statement

Applicant respectfully requests that the Examiner formally acknowledge the IDS filed separately on October 29, 2007, by initialing and returning the SB-08 form submitted therewith.

Disposition of Claims

Claims 21-24 were pending in this application. Claims 22-24 have been cancelled by this reply. Thus, claim 21 is now pending.

Claim Amendments

Claims 22-24 have been cancelled by this reply.

Rejections under 35 U.S.C. §§ 102 and 103

A. Claims 22 and 23 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. 2004/0102332 to Thompson et al. ("Thompson"). Claims 22 and 23 have been cancelled by this reply. Thus, this rejection is now moot and withdrawal of this rejection is respectfully requested.

B. Claims 22-24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 4,663,076 to Clapper et al. ("Clapper"). Claims 22 and 23 have been cancelled by this reply. Thus, this rejection is now moot and withdrawal of this rejection is respectfully requested.

C. Claims 21-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,941,983 to Coates et al. ("Coates"). Claims 22-24 have been cancelled by this reply. The rejection with regard to claim 21 is respectfully traversed.

Independent claim 21 recites a drilling fluid comprising: an oleaginous fluid, wherein the oleaginous fluid is the continuous phase of the drilling fluid and wherein the oleaginous fluid comprises from about 30% to about 95% by volume of the drilling fluid and the oleaginous fluid of a material selected from a group consisting of diesel oil, mineral oil, synthetic oil, esters, ethers, acetals, di-alkylcarbonates, olefins, and combinations thereof; a non-oleaginous fluid, wherein the non-oleaginous fluid is the discontinuous phase of the drilling fluid, wherein the non-oleaginous fluid comprises from about 5% to about 70% by volume of said drilling fluid and the non-oleaginous fluid is selected from the group consisting of fresh water, sea water, a brine containing organic or inorganic dissolved salts, a liquid containing water-miscible organic compounds, and combinations thereof; an organophillic clay, wherein the organophillic clay is present in a concentration of about 0.1% to about 6% by weight; a primary emulsifier selected from an amidoamine and/or an oleate ester, wherein the primary emulsifier is in sufficient concentration to stabilize the invert emulsion; a weighting agent, wherein the weighting agent or bridging agent is selected from the group consisting of galena, hematite, magnetite, iron oxides, illmenite, barite,

siderite, celestite, dolomite, calcite and combinations thereof; and a rheology modifier, wherein the rheology modifier is a mixture of C_{12} to C_{22} poly-carboxylic fatty acids, including at least a dimer poly-carboxylic C_{12} to C_{22} fatty acid, and a trimer poly-carboxylic C_{12} to C_{22} fatty acid, wherein the mixture of poly-carboxylic fatty acids is added in sufficient concentration so that the trimeric poly-carboxylic fatty acid concentration in the drilling fluid is greater than 0.1 pounds per barrel and is up to 5.0 pounds per barrel.

Coates discloses a fluid loss additive for oil-based well-working fluids, wherein the fluid loss additive comprises the product of mixing, in an oil or oil-based liquid (i) lignite or humic acid ("component (i)"), (ii) (a) an oil-soluble or oil-dispersible amine or amine salt, preferably cyclic amine or a salt thereof, amide-amine or salt thereof, amphoteric amine or salt thereof or partially quaternized amine or salt thereof containing at least one C_{1-22} alkyl, C_{2-22} alkenyl or C_{1-22} acyl group; or a tertiary amine ester ("component (iia)") and/or (b) an aliphatic amide or hydroxyamide, or a cyclic derivative thereof, containing no primary or secondary amine or amine salt groups ("component (iib)") and/or (c) an oil-soluble or oil-dispersible amine salt, containing at least one C_{1-22} alkyl, C_{2-22} alkenyl or C_{1-22} acyl group partially or fully converted to salt form with phosphoric acid ("component (iic)"), and (iii) a dimer and/or trimer fatty acid ("component (iii)"). *See* col. 2, lines 20-42.

Applicant notes, however, that Coates does not disclose that the additive includes a primary emulsifier *selected from an amidoamine and/or an oleate ester*, as required by independent claim 21. The Examiner cites Example 1 (col. 7, line 49 – col. 8, line 2) as well as the discussion beginning on line 47 of column 3 and continuing to line 12 of column 4, to assert that Coates

discloses this limitation. However, Applicant respectfully notes neither of these discussions (nor anywhere else in Coates) discloses or even suggests either an amidoamine or an oleate ester. Rather, the closest thing disclosed in Coates is that component (iia) may be an amide-amine; however, when this is the case, the amide-amine is then mixed and *reacted with* component (i) to form an amide. *See e.g.*, col. 6, lines 27-34. The reaction product is then mixed together with component (iii) to form the fluid loss additive. *Id.* Applicant respectfully notes that this is not equivalent to a primary emulsifier selected from an amidoamine and/or an oleate ester.

A *prima facie* case of obviousness requires that all claim elements and limitations be taught or suggested by the prior art. See *In re Royka*, 490 F.2d 981 (CCPA 1974); MPEP §§ 706.02(j), 2143.03. If even a single claim limitation is not taught or suggested by the prior art, then that claim cannot be obvious over the prior art. *Id.* Therefore, because Coates does not show or suggest every claim element in claim 21, claim 21 is patentable over Coates. Accordingly, withdrawal of this rejection is respectfully requested.

D. Claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Thompson. Claim 24 has been cancelled by this reply. Thus, this rejection is now moot and withdrawal of this rejection is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number [05542/073001]).

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Respectfully submitted,

By _____

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